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THE NEGOTIATIONS FOR THE FUTURE POLITICAL STATUS  
OF THE TRUST TERRITORIES OF THE PACIFIC ISLANDS

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THE NEGOTIATIONS FOR THE FUTURE POLITICAL STATUS OF  
THE TRUST TERRITORY OF THE PACIFIC ISLANDS (TTPI)  
COMMONLY REFERRED TO AS MICRONESIA

INTRODUCTION

After fourteen years of negotiations, the Government of the United States and the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands have resolved all remaining negotiating issues prerequisite to approval of the Compact of Free Association. It remains for the Republic of Palau to resolve an incompatibility between the Compact and their constitution. Approval of the Compact in accordance with the constitutional processes of the freely associated states and the United States will establish three bilateral relationships between the United States and each of the new states emerging from the Trust Territory of the Pacific Islands (TTPI).

Approval will also provide the basis for termination of the Trusteeship Agreement between the United States and the United Nations Security Council. Under the Compact, each freely associated state will enjoy control over its internal affairs and its foreign relations, including competence to enter into international agreements. Mutual security arrangements, set forth in the Compact and its separate agreements, provide for a United States defense umbrella during the life of free association and long-term exclusion of third country military forces, should any or all of the freely associated states opt for independence at some future date.

BACKGROUND

The TTPI, established in 1947, is the only strategic trusteeship of the eleven trusteeships originally created by the United Nations. The Territory has a heterogeneous population of about 140,000 people scattered among more than 2,100 islands and islets in three major archipelagos: the Carolines, the Marshalls and the Marianas. The entire area is commonly called Micronesia, meaning, "little islands."

The Trust Territory covers some three million square miles of the Pacific Ocean, an area slightly larger than the continental United States. It is composed of six administrative districts plus the Northern Mariana Islands. Five of the administrative districts - Palau (which has opted for separate status), Yap, Truk, Ponape and Kosrae - lie within the Caroline archipelago. The Marianas and the Marshall Islands lie in separate archipelagos of the same names.

The vast Pacific Ocean expanses separating the island and atolls have created cultural diversity; at least nine Malayo-Polynesian languages and their dialectal variations are spoken in the territory. The most common bond has been occupation by foreign powers for four hundred years. Spain, Germany, Japan and now the United States have all left their imprint.

## SUMMARY HISTORY OF THE NEGOTIATIONS

The Nixon Administration commenced the negotiations in 1969. During the period 1969-72 serious philosophical differences emerged among the Micronesians. The ethnically distinctive people of the Northern Marianas Islands preferred a close, permanent relation with the U.S. and had been petitioning for this status since their first elected legislature came into existence in 1963. When it became clear that the other Micronesians wanted a different relationship and that this was the only course by which it could gain its preferred future commonwealth status, the Marianas decided to put aside the fragile Micronesia unity. Accordingly, the U.S. agreed to abandon its preference for political unity in Micronesia and in December, 1972 opened separate negotiations with the Northern Marianas Islands.

Palau and the Marshall Islands, however, with the other Caroline districts, wanted the identical but separate future political status of free association. This status would maximize internal self-government and insure autonomy sufficient to enable them to establish their own international legal personality, while forming the basis for a close and enduring political relationship with the United States. Palauan and Marshallese separation from the other Micronesia districts was motivated essentially by economic considerations. They saw a continuation of political unity as a drain of their resources to the more populous and less well endowed central districts (Yap, Ponape, Truk, Kosrae). While the U.S. continued to urge political unity (excluding the Northern Marianas Islands), the elected Paluan and Marshallese representatives steadfastly maintained that the proposed constitution for a single "Federated States of Micronesia" constitution would be defeated in their districts when put to a vote.

Thus, the U.S. was in 1977 confronted squarely with the fact that after 30 years of administrative unity, an all-Micronesia nation strong enough to unite the culturally disparate island groups had not developed. By recognizing the right of each legislature to select its own negotiators, the Carter Administration bowed to the inevitable and recognized the right of Palau and the Marshall Islands to determine their own future independent of the four remaining districts.

On July 12, 1978, a referendum was held on the proposed Federated States of Micronesia constitution. The constitution was rejected as predicted in Palau and in the Marshalls, but ratified in the four central districts of Yap, Ponape, Truk and Kosrae. (The Marshall Islands subsequently approved their own constitution in a referendum of March 1, 1979. The Palauan draft constitution was approved on July 9, 1980 and the Government of Palau inaugurated January 1, 1981.)

The cornerstones of the Compact of Free Association were laid at the conclusion of the Carter Administration. The Statement of Agreed Principles for Free Association (the Hilo Principles) signed in 1978, established the parameters of the relationship. The Compact, initialed by the signatory governments in 1980, set forth much of the substance of free association as it had evolved through the negotiating process. While the initialed Compact set forth the basic governmental, economic, security and defense aspects of the prospective relationship, only five of seventeen implementing agreements associated with the Compact had been concluded by the time of the 1980 Presidential elections.

# REAGAN ADMINISTRATION POLICY REVIEW

At the outset of 1981, the Reagan Administration conducted a comprehensive review of the Carter documents and the Micronesian policy of the three preceding administrations. In October of 1981, the Reagan Administration formally presented its conclusions to the three Micronesian Governments at a multilateral session conducted at Maui, Hawaii. The United States informed the Micronesian governments that it was prepared to accept the initialed Compact as the basis for conclusion of the political status negotiations, provided that the remaining subsidiary agreements could be negotiated to the satisfaction of the signatory governments. The United States further reaffirmed that it would seek termination of the Trusteeship Agreement on the basis of free association at the earliest possible date.

The conclusions of the Reagan Administration policy review were based on the assessment that free association, as defined in the initialed Compact, would establish the basis for a stable relationship between the United States and Micronesia. Politically, the Micronesians would emerge from the trusteeship in charge of their own internal and external affairs. Economically, the Compact would provide the Micronesians with sufficient unrestricted grant funds and programmatic assistance to establish development policies based upon their own social, political and economic priorities rather than Washington's. The fifteen-year period of Compact funding was seen as a means to enable the new states to conduct long-term fiscal planning and economic development programs. From the defense standpoint, the Compact would ensure a strategic status quo in the Pacific Basin, — and the Micronesians would have a politically stable environment for internal political and economic development. These strategic requirements would be secured under those provisions of the Compact which establish United States authority and responsibility for defense and security matters for an initial fifteen-year period, and by United States military operational rights as set forth in three bilateral separate agreements. The Reagan Administration also reiterated the requirement for a mutual security arrangement whereby the United States would undertake to defend the freely associated states for an indeterminate period, and the new states would agree to deny third country military forces access to their areas.

The Reagan Administration further concluded that under the Compact the Micronesians would achieve a new political status which, with the democratically expressed approval of the people of the emerging states, would meet the international criteria for legitimacy under the United Nations Charter and under international law, and which would be consistent with the obligations of the United States under the Trusteeship Agreement to foster the development of the Micronesians toward self-government or independence, in accordance with the freely-expressed wishes of the people.

It soon became clear to negotiators for all four governments that the process of bringing the three states along together which had facilitated the compact negotiations during the Carter Administration, had outlived its utility. Therefore, during 1982, and until the conclusion of the negotiations with the signature of the final implementing agreement on July 1, 1983, the negotiations were conducted on a basis which was exclusively bilateral.

#### MULTILATERAL/BILATERAL SEPARATE AGREEMENTS

The United States and each of the other signatory governments concluded a series of multilateral and bilateral separate agreements (transfer of USG property, telecommunications, extradition, status of U.S. forces, fiscal procedures) called for in the Compact, as well as three other bilateral agreements related to the Compact.

#### MUTUAL SECURITY AGREEMENTS

All three Micronesian governments concluded bilateral agreements with the United States which provide for the mutual security of the signatories. Under these agreements United States responsibility and authority in security and defense matters in Palau, the Marshall Islands and the Federated States of Micronesia includes the right to deny "access to or use of" the freely associated states by "the military personnel or for the military purposes" of any third country. In addition, the United States recognizes that any attack on the freely associated states would "constitute a threat to the peace and security of the Pacific area and a danger to the United States" which the United States government will take action to meet. The mutual security relationship established under these agreements can be altered or terminated only by mutual agreement.

#### ECONOMIC ASSISTANCE TO MICRONESIA

Under the Compact, the United States will provide agreed amounts of grant economic assistance and certain U.S. Government services to the Governments of Palau, the Marshall Islands and the Federated States of Micronesia for a minimum period of fifteen years. Forty percent of the grant funding will be earmarked for economic development with projected uses including new infrastructure programs, major maintenance activities and revenue generating projects. The assistance funds will be spent in accordance with jointly developed planning documents which will establish goals for the various sectors of the economies in an effort to lessen the freely associated states' dependence on outside resources and to approach economic self-reliance. The portion of the grant assistance not used for development purposes will finance the recurrent operational expenses of the freely associated state governments, including continuing programs in the areas of health, education, transportation and communication, law enforcement and public works.

The Compact's funding program provides for the diminution of U.S. grant assistance in stages after the fifth and tenth years, although an integrated system of partial adjustment for inflation which is tied to the performance of the U.S. economy will help to maintain the value of the funding over the years. The estimated cost to the United States over the initial 15-year period is approximately \$2.2 billion before adjustment for inflation. Funding for Palau during the 16th through 50th years will be provided entirely out of an initial investment made during the first year.

The Compact and its subsidiary agreements commit the United States to continue to provide, at no cost to the Governments of Palau, the Marshall Islands and the Federated States of Micronesia, airline and airport safety services, economic regulation of commercial air service, weather prediction, and assistance in the event of natural disasters. The United States Postal Service would continue to provide international postal service, although each of the three governments would assume responsibility for its domestic postal operations.

#### PALAU'S ECONOMIC ASSISTANCE AGREEMENT

Palau's negotiators were concerned about the duration of United States' defense authority and the lack of any economic assistance obligations of equal duration. Palau's representatives elected to deal with this issue in a rather unique manner. During the final negotiations Palau requested an extension of the term of free association in the Compact from fifteen to fifty years. The Compact consequently was amended to provide for an extension of economic assistance grants coextensive with the new fifty-year period of free association for Palau. Funding for grants during years sixteen through fifty will be derived by investment of the sum of \$60 million in interest-bearing instruments of the United States. A separate agreement between the United States and Palau governs the management of the investment fund, the express purpose of which is to produce income for the Government of Palau by means of distributions in the sixth, eleventh, sixteenth and all subsequent years of the relationship of free association.

#### SEPARATE AGREEMENT WITH PALAU ON HARMFUL SUBSTANCES

Palau and the United States also concluded a bilateral agreement in which the two governments sought to clarify the language of Section 314 of the Compact and recapitulate the conditions, restrictions and safeguards applicable to the United States with respect to introduction of certain harmful substances into Palau. However, when that separate agreement was presented to the Palauan people for approval, appearing as a separate question on the ballot in Palau's political status plebiscite on February 10, 1983, the voters did not give the three-fourths approval required by the Palauan Constitution for that question. While the Compact was approved by 62% in the plebiscite, voter rejection of the separate agreement under Section 314 of the Compact required negotiators for the United States and Palau to revisit the issue of compatibility between the harmful substances restrictions in the Palauan Constitution and United States defense responsibility and authority under the Compact.

On July 1, 1983, the United States and Palau sought to resolve this longstanding dilemma by signature of an agreement which both governments view, in light of the February 10 plebiscite results, as reconciling the Constitution and the Compact. Under that agreement, Section 314 is made inapplicable in Palau, and United States defense responsibility and authority is confirmed. The United States agrees not to "use, test, store or dispose of" nuclear or toxic weapons in Palau. Upon approval by the Palauan legislature, this agreement will constitute authorization in accordance with the constitutional processes of Palau for the United States to exercise its defense responsibility under the Compact. In the meantime a finding by the Palauan Supreme Court regarding the plebiscite may require that further reconciliation steps be taken.

#### MARSHALL ISLANDS NUCLEAR CLAIMS SETTLEMENT

The agreement settling the nuclear claims (arising from the United States nuclear testing program in the Marshall Islands) which was concluded and signed on June 25, 1983 contains three basic elements:

- a claims fund of \$150 million will be provided to the Marshall Islands Government and invested in interest-bearing bonds, notes or other redeemable instruments to create a potentially permanent endowment for payment of nuclear claims;
- the proceeds of the fund will be utilized for payments to persons known to be affected by the nuclear testing program, especially but not solely the people of Bikini, Enewetak, Rongelap and Utrik; and to fund a Marshallese claims tribunal to pay unknown or presently unknowable claims; and for medical care and other assistance to the people of the Marshall Islands; and
- in exchange for establishment of this settlement funds the Marshall Islands Government espouses and settles all claims of its citizens arising from the nuclear testing program.

#### COMPACT APPROVAL PROCESS

The Compact was negotiated within the framework of the Hilo Principles, which, among other thing, called for submission of the free association agreement to a plebiscite conducted under observation by the United Nations. After signature of the Compact and at the request of the Permanent Representative of the United States to the United Nations, the Trusteeship Council of the United Nations authorized three special visiting missions to observe the plebiscites conducted in Palau, the Federated States of Micronesia (FSM) and the Marshall Islands.

Echoing the Hilo Principles, Sections 411 and 412 of the Compact, together, set forth the requirements for approval of the Compact by the signatory governments and by the people voting in the plebiscites. Governmental approval in all three Micronesian jurisdictions require approval of the agreement by the legislative branch of each signatory government, and in the FSM, by the legislatures of its constituent states.

In order to provide a legitimate basis for termination of the trusteeship, the Governments of Palau, the FSM and the Marshall Islands conducted plebiscite education programs which would present a full range of future political status options and issues to the people of the Trust Territory. In the view of the members of the Trusteeship Council, the act of self-determination leading to termination had to afford the people an opportunity to freely express their views on the three basic options available to them under international law and the trusteeship system of the United Nations: integration with a municipal power, independence, or a political status other than integration or independence such as free association. From the outset the Trusteeship Council made it clear that it desired these three options, in some form, to appear on any plebiscite ballot.

For its part, the United States had no objection to the concept that other political status options should appear on the ballot, as long as the ballot presented free association, as defined in the Compact, as a separate question so that all voters could express approval or disapproval of that agreement.

Micronesian views on the ballot were influenced by internal political factors, and, in general, they favored a simple yes or no vote on the Compact in order to obtain the clearest possible mandate from their people. The ballot language finally accommodated all the concerns of the United States, the Micronesians and the Trusteeship Council by presenting the issue of Compact approval as a separate question, and in a second question allowing the voters to express a preference as to independence or a relationship with the United States closer than free association (i.e., some form of integration) should the Compact be rejected.

The first political status plebiscite was conducted in Palau on February 10, 1983. The people of Palau approved free association as defined in the Compact by a 62.1 percent majority. Asked to express a preference between independence or a relationship with the United States closer than free association should the Compact be disapproved, 55.6 percent of those who voted on this issue, preferred a closer relationship. On June 21, 1983, a plebiscite was conducted in the Federated States of Micronesia. In that vote 79 percent of the people approved free association. In the Marshall Islands plebiscite of September 7, 1983, 58 percent approved the Compact.

Subsequent to approval of the Compact by the people of Micronesia and their governments, the executive branch of the United States Government will submit the Compact to Congress in the form of a joint-resolution. Once adopted by a simple majority of both houses of Congress and signed by the President, the Compact will become a Congressional-Executive Agreement which will have the force and effect both of a United States law and an international agreement or "treaty." The Compact will also be a multi-year authorization for appropriation of the funds to be provided for grants and assistance, a departure from normal annual Congressional budget approval procedures.



#### TERMINATING THE TRUSTEESHIP

The 1947 Trusteeship Agreement prescribes no procedures for its own termination, and there is no real precedent in United Nations practice because the TTPI was the only strategic trusteeship established. Ultimate responsibility for it in the United Nations, therefore, resides with the Security Council, whereas in the cases of the other ten trusteeships, the United Nations body with ultimate responsibility was the General Assembly. Like the General Assembly, the Security Council has, under Article 83(3) of the United Nations Charter, availed itself of the assistance of the Trusteeship Council in the discharge of its recurring oversight responsibilities.

The Government of the United States has stated its intention to take up the matter of termination of the Trusteeship Agreement with the Trusteeship Council and the Security Council at the appropriate time. In bringing this matter before the appropriate United Nations bodies, the United States will proceed in a fashion consistent with the United Nations Charter and with the conviction that no nation or group of nations could in good conscience object to, or attempt to obstruct the implementation of free exercise of the right of self-determination by the people of the Trust Territory. In the exercise of its responsibility as Administering Authority under the Trusteeship Agreement, the United States is bound to assure that the freely expressed aspirations of the people of the Trust Territory are realized.

#### CONCLUSION

The Trusteeship Agreement committed the United States to promote economic, social and political development in Micronesia and to foster democracy so that the inhabitants of the Trust Territory could achieve the goal of self-determination. The Trusteeship Agreement also designated Micronesia as a "strategic trust" in recognition of the vital importance of the region in the maintenance of regional peace. From the beginning the United States has recognized that its own interests and the interests of the Pacific Basin were dependent on preserving access of United States forces to Micronesia for occasional or emergency use and preventing the intrusion of military forces of third nations into the area. From the beginning, the Trust Territory also enjoyed a unique status because its sovereignty was reserved in political trust while the foundation for development was laid. In this vast area, strategically located relative to Asia and the Pacific, whose people had long been denied the right to self-determination, and whose islands were resource poor, the United States undertook to fulfill its Trusteeship obligations. Though the United States can be correctly criticized for some of the errors and omissions in its policies which are apparent in retrospect, the basic commitment of the United States to honorably fulfill the objectives of the Trusteeship is evident not only in the institutions of democracy which have been established, the physical development that has taken place in the islands and the improved quality of life, but also in the fundamental friendship that has been established between the United States and the people of Micronesia.